

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 2412 OF 2003.
IN
NOTICE OF MOTION NO. 350 OF 2001
IN
SUIT NO. 442 OF 2001

Smt. Amina Khatoon wd/o Yasin M. Nanhe.] .. Plaintiff

Versus

1. Abdul H.M. Yasin Nanhe & Ors.] .. Defendant

Ms.Mamta Sadh i/b T.N. Tripathi for the plaintiff.

Mr.A.M. Rajabally for the defendant No.1.

CORAM: ANOOP V. MOHTA, J.

DATED: 12TH SEPTEMBER, 2005

P.C. :

1. Heard. This Notice of Motion has been taken out for restoration of the Notice of Motion No.350 of 2001 which was dismissed on 11th March, 2002, as none appeared for the applicant-plaintiff. The suit is pending. The learned counsel appearing for defendant No.1 opposed the present Notice of Motion mainly on the ground of delay. Considering the averments made in the Affidavit in support of the Notice of Motion and further taking into account the relation between the parties

i.e. applicant-plaintiff is the mother of all the defendants, I see there is no reason to reject the averments made in support of the Motion. The cause, as shown, is sufficient to condone the delay.

2. The learned counsel for defendant No.1 also pointed out that in view of the interim orders, there were no compliances. Therefore, he objected to the restoration of the interim orders also. There is no dispute that all the interim orders were pending when the Notice of Motion in question was dismissed. Considering this, whatever may be the consequence of the restoration of the Notice of Motion, relating to or arising out of the earlier ad interim orders, shall remain as they were. They will not be affected in any way. Even otherwise, parties are at liberty to take appropriate steps if necessary.

3. Considering the above, the present Notice of Motion is allowed in terms of prayer clauses (a) and (b). The earlier Notice of Motion No. 350 of 2001 is restored to file. Ad-interim orders to continue. The Notice of Motion No.350 of 2001 to be placed before the appropriate Court.

[srpasha@hc]

[ANOO P V. MOHTA, J.]